

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB) 373 (ND)/2017

CORAM:

PRESENT: SH. S. K. MOHAPATRA
HON'BLE MEMBER(T)

SMT. INA MALHOTRA
HON'BLE MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW DELHI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 15.12.2017

NAME OF THE COMPANY: M/s One Up Trade Pvt. Ltd. Vs. M/s Arise India Ltd.

SECTION OF THE COMPANIES ACT: 9 of IBC, 2016

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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For the Petitioner (s) : Mr. Gurcharan Singh, Advocate

For the Respondent (s) : Mr. Yashvardha Ambuj Dixit and Mr. Ashish Aggarwal, Advocates

ORDER

Ld. Counsel appearing for the Respondent confirms at the bar that no Official/ Provisional Liquidator has been appointed till date by the Hon'ble High Court of Delhi in the winding up petitions filed against the Respondent company.

Given this fact, Ld. Counsel for the Petitioner has relied upon order dated 23.11.2017 passed by the Hon'ble NCLAT in Company Petition No. 202/2017(AT) in the matter of Forech India Pvt. Ltd. Vs. Edelweiss Assets Reconstruction Company Ltd. & Anr., wherein the Hon'ble Appellate Tribunal has observed in para 10 of the judgment as follows:-

"10. In the present case, admittedly no order of winding up has been passed against the 'Corporate Debtor' by the

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Hon'ble High Court. No liquidation proceeding has been initiated. It appears that some of the applications for 'winding up' under the Companies Act, 1956 are pending, but no order for 'winding up' has been passed. In the circumstances, in the absence of actual initiation of 'winding up' proceedings against the Corporate Debtor, it is always open to the Financial Creditor/ Operational Creditor to file an application for Corporate Insolvency Resolution Process against the Corporate Debtor."

In view of the same, Ld. Counsel for the Petitioner presses his prayer for disposal of the present petition.

Reply of the Respondents is on record.

It was contended by the Ld. Counsel for the Respondents that additional volume of the paper book filed by the Petitioner has not been supplied to him.

Let steps be taken. In the meanwhile, proper compliance of the requirements under Section 9(3)(c) be made within 7 days as provisions of the Code.

To come up for further arguments on 10th January, 2018. ✓

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(S. K. Mohapatra)
Member (T)

-S-d-1

(Ina Malhotra)
Member (J)